

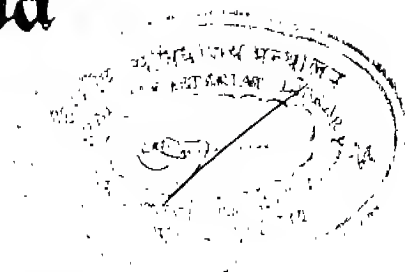


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 10th July, 1992:—

I

BILL NO. XVI OF 1992

A Bill to provide for payment of allowance to the unemployed persons and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:

1. (1) This Act may be called the Payment of Allowance to Unemployed Persons Act, 1992.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) 'allowance' means the monthly payment to be made to an unemployed person under sub-section (1) of section 3;

(b) 'State' includes the Central Government and the Government of a State or Union territory administration and all local or other authorities under the control of the Government of India or of a State;

Short
title, ex-
tent and
commen-
cement.

Defini-
tions.

(c) 'unemployed person' means any adult citizen who has no ostensible means of livelihood and whose name is registered in an employment exchange.

Payment
of Unem-
ployment
Allow-
ance.

3. (1) There shall be paid to every unemployed person an unemployment allowance ranging from rupees three hundred to rupees five hundred per mensem as may be fixed under sub-section (2)

(2) While fixing the amount of unemployment allowance to be paid to an unemployed person, the State shall have regard to the educational qualifications, technical skill etc. of the person concerned.

Central
Govern-
ment to
share
the expen-
diture of
payment
of unem-
ployment
allow-
ance.

4. The Central Government shall bear the expenditure to be incurred on the payment of unemployment allowance upto the extent of seventy-five per cent. of the total expenditure and the rest of such expenditure shall be met by the respective State Governments and Union Territory Administrations.

Mainten-
ance of
Unem-
ploy-
ment
allow-
ance
cum id-
entity
book.

5. (1) Every person who has been paid unemployment allowance shall maintain an identity book wherein all entries relating to receipt of unemployment allowance and other benefits under this Act shall be entered from time to time in such manner as may be prescribed.

(2) If any beneficiary under this Act is found engaged in an activity prejudicial to the interest of the State, his unemployment allowance shall without prejudice to action under any other law, for the time being in force, be discontinued forthwith.

Power to
make
rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The problem of unemployment has assumed serious dimensions in our country. This has caused frustration among the youth and their energy is not being utilised for the nation building and for the welfare of the State. Driven by desperation youth have in certain parts of the country, taken to the path of violence. This causes in calculable harm to our country. Immediate measures are required to be taken to generate employment opportunities. It is of course a long process, but the young men and women cannot wait till the developmental projects or employment schemes provide enough jobs for them. Article 41 of the Constitution of India also provides that the State shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment etc. Therefore, there is an urgent need for providing suitable jobs for the unemployed or alternately paying some unemployment allowance to them till they are able to get employment.

The Bill seeks to achieve the above objective.

RAMDAS AGARWAL.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the State shall pay unemployment allowance to the unemployed persons at a rate to be fixed by the Central Government. The Central Government has to incur expenditure from the Consolidated Fund of India in respect of provision of unemployment allowance. It is, however, difficult to estimate the likely expenditure accurately. The Central Government has to assist State Government/Union Territories also for implementing the provisions of the Bill. It is estimated that an annual recurring expenditure of about rupees four thousand crores is likely to be involved from the Consolidated Fund of India. There is no likelihood of any significant non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to frame rules to carry out the objects of the Bill. Delegation of Legislative power is of a normal character.

II

BILL NO. XXXI OF 1992

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1992.

(2) It shall come into force with immediate effect.

2. To article 214 of the Constitution, the following proviso shall be added at the end, namely:—

"Provided that the Union Government shall, within a period of five years from the commencement of the Constitution (Amendment) Act, 1992, set up additional benches of High Courts in each State and Union Territory keeping in view the area, population, public demand and the cases pending in the High Court or its benches of such State or Union Territory."

Short
title
and
com-
mence-
ment.

Amend-
ment
of article
214.

STATEMENT OF OBJECTS AND REASONS

Seeking legal redress is one of the necessities of present day life and our Constitution protects the right to seek legal redress. But there is a plethora of cases pending disposal before various Courts particularly before the High Courts in the States and Union Territories of the country. The litigation has become very costly and considering the vastness of the country and poverty of its people, it is necessary to consider measures to provide easy, quick, cheap and timely justice to the people. This is all the more important for the people living in far flung rural areas away from the State capitals where High Courts are normally located. Such a situation obviously denies the poor man to seek legal redress in High Courts which involves considerable expense and inconvenience. The large volume of cases before the High Courts has made litigation time consuming resulting in delayed justice which amounts to denial of justice. Moreover, taking advantage of the vastness of the territorial jurisdiction of a High Court or its benches, advocates practising in such High Courts or benches have established their monopoly in such courts and are charging exorbitant fees thereby making it beyond the reach of a commonman. If more benches of all the High Courts are set up at easily accessible places it will certainly reduce the number of pending cases in High Courts and the State will also be in a position to provide easy, quick, cheap and timely justice to the masses. This step will certainly mitigate the sufferings of the poor litigants in the country.

This Bill seeks to achieve the said objectives.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that Union Government shall within a stipulated period set up additional benches of High Courts keeping in view the area and population of a State or Union Territory. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees fifty lakhs is likely to be incurred from the Consolidated Fund of India.

No non recurring expenditure is likely to be involved.

III

BILL No. XXXII OF 1992

A Bill to provide for the compulsory registration of all the marriages solemnised in the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

Short
title,
extent
and
com-
mence-
ment.

1. (1) This Act may be called the Compulsory Registration of Marriages Act, 1992.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of a State and in all other cases the Central Government;

(b) “prescribed” means prescribed by rules made under this Act;

(c) “Registrar” means the Registrar of Marriages appointed under section 4.

3. Notwithstanding anything contained in any other law for the time being in force all marriages solemnised in any manner in India after the commencement of this Act, shall be compulsorily registered with the Registrar.

Compulsory registration of marriages.

4. (1) The appropriate Government shall appoint a Registrar for every district under its jurisdiction who shall register all the marriages solemnised within that district.

Registrar of Marriages for every district.

(2) The Registrar shall maintain a register of marriages for entering the particulars of parties to the marriages in such form and in such manner as may be prescribed by the appropriate Government, from time to time but it shall include the following particulars; namely:—

(a) the names and addresses of the bride and the bridegroom and of their parents or legal guardians;

(b) the age of the bride and the bridegroom together with the proof of age which has been produced in support of the age; and

(c) the *Stridhan* or gifts given in cash or kind to the bride by her parents, legal guardians and friends at the time of marriage.

5. It shall be the duty of the parents or legal guardians of the bride and bridegroom to furnish the particulars specified under section 4 or any rules made thereunder to the Registrar within a week of the solemnisation of the marriage.

Parents to furnish the particulars of the bride and bridegroom.

6. (1) If the parents or legal guardians of the bride or bridegroom, as the case may be, fail to furnish the requisite particulars within the prescribed time, a fine of rupees five thousand shall be imposed by the Registrar on the defaulting parents or guardians, but the payment of fine shall not absolve the parents or guardians from furnishing the particulars about the marriage.

Punishment and other procedures.

(2) If the parents or legal guardians fail to furnish the requisite particulars even after paying the fine under sub-section (1) such parents or guardians shall be liable for imprisonment which may extend to one month and a further fine which may extend to ten thousand rupees or with both.

(3) For the enforcement of its orders under this Act the Registrar shall have the powers of a District Court.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

In our country the social evil of child marriage still continues despite the law prohibiting child marriages being in force. This social evil continues not only as a custom but is being misused by some unscrupulous elements to smuggle minor girls out of the country to places where generally such hapless girls are forced into prostitution. Since there is no provision for compulsory registration of marriages in the country, child marriages are generally not detected and the offenders are not prosecuted. This social evil can be discouraged if all the marriages are compulsorily registered in the country.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 4 provides for the appointment of Registrar for every district. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five crores per annum.

A non recurring expenditure of rupees three crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 gives power to the Central Government to make rules for carrying out the purposes of the Bill which may relate to matters of details only. The delegation of legislative power is of normal character.

IV

BILL No. XXXIV of 1992

A Bill to provide for a comprehensive policy for the proper educational sports and other facilities and employment opportunities for the youth in the country and for their general welfare and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title,
extent
and com-
mence-
ment.

1. (1) This Act may be called the Youth (Development and Welfare) Act, 1992.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Defini-
tions.

2. In this Act unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of the State and in all other cases the Central Government;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "youth" means all persons between sixteen and thirty years of age;

(d) "youth organisation" means an organisation of youth having universal membership without any discrimination on the basis of race, religion, language, caste, creed or sex and the constitution for its democratic functioning;

(e) "youth co-operatives" means a co-operative society of youth duly formed under co-operative society law for the time being in force.

3. The appropriate Government shall provide to the youth,—

- (a) free education including medical and technical education;
- (b) materials like books, note books, stationary etc free of cost;
- (c) free hostel facilities;
- (d) scholarships to deserving youth students;
- (e) such other educational facilities as may be prescribed.

Educational facilities to the youth.

4. The appropriate Government shall provide,—

- (a) necessary facilities to the youth for participation in sports both within and outside the country;
- (b) adequate finances to sports organisations for supply of sports materials to the youth;
- (c) representation to youth organisations in sports associations and bodies;
- (d) for the welfare of a sports person who has represented the country in any sports event for his life time.
- (e) such other facilities as may be prescribed.

Sports facilities to the youth.

5. The appropriate Government shall provide regular medical and health care to the youth free of cost.

Medical care to the youth.

6. The appropriate Government shall evolve a scheme under which youth shall be provided training in various trades and vocations by attaching them to factories and vocational institutes.

Vocational training to the youth.

7. The appropriate Government shall provide proper and gainful employment to the youth after their education and training or unemployment allowance in lieu thereof, at such rates as may be prescribed till they are provided with employment.

Provision of employment for the youth.

8. The appropriate Government shall make endeavour to promote the youth co-operatives and reserve agencies of petrol, kerosene, cooking gas, fertilizers, processed food, milk etc. for youth co-operatives for their proper development.

Promotion of youth co-operatives.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with any of the provisions of this Act.

Savings.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The youth in a country plays a dominant role in its development. In many countries fascist regimes or dictatorships have been over-thrown by the youth. Many revolutions owe their success to the youth. It is, therefore, all the more necessary to harness the youth properly otherwise their energies can be exploited by anti-social and anti-national elements as we have seen in our border States of Punjab, Jammu and Kashmir and North Eastern States. However, even after 44 years of Independence no clear cut youth policy has been laid down in our country for the proper development of the youth. Education and employment are two basic things for the proper development of youth. Therefore, the youth should be given free and proper education and vocational training and thereafter gainful employment or unemployment allowance till they get employment. Their sports qualities should also be developed. Youth organisations should be consulted in dealing with the problems of youth. Their co-operatives should be encouraged. A comprehensive youth policy is, therefore, absolutely necessary for their proper development and utilisation in the country.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for educational facilities to the youth. Clause 4 provides for sports facilities. Clause 5 provides for medical care to the youth. Clause 6 provides for vocational training and clause 7 for employment to the youth. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of about rupees one thousand crores is likely to be incurred.

A non recurring expenditure of about rupees ten crores is also likely to be incurred

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives rule making power to the Central Government. The rules will relate to matters of details only. The delegation of Legislative power is of normal character.

V

BILL No. XXXIII OF 1992

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Constitution (Amendment) Act, 1992.

Amend-
ment of
the
preamble.

2. In the preamble to the Constitution the word "Socialist" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Socialism as a means to bring about economic justice has failed the world over. The Soviet experiment with Socialism for over seventy years has not only resulted in total economic collapse but also her disintegration and the future of those people is bleak. The economic situation in East European Countries on which Socialist economy was imposed is equally grim.

The attempt to bring about Socialism in India by reckless nationalisation and trying to place the public sector at "commanding heights" has made the country bankrupt and the economy is in shambles. The corrective steps to bring the economy back on rails are already being taken. It is, therefore, necessary to omit the word "Socialist" from the Preamble of the Constitution which was introduced in the Preamble by the Constitution (Forty- Second Amendment) Act, 1976.

The expression "Socialist" which qualifies the nature of the Republic of India is also violative of the democratic ethos of the Constitution. The goals of the country as the Preamble further says are "Justice, social, economic and political". To say that only one type of economic system can achieve it is undemocratic. For these reasons the word "Socialist" needs to be deleted.

Hence this Bill.

KRISHAN LAL SHARMA

VI

BILL No. XL OF 1992

A Bill to provide for the establishment of the State of Pondicherry and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short
title.

1. This Act may be called the State of Pondicherry Act, 1992.

Defini-
tions.

2. In this Act, unless the context otherwise requires—

(a) “Administrator” means the Administrator appointed by the President under article 239 of the Constitution;

(b) “appointed day” means the day which the Central Government may, by notification in the Official Gazette, appoint;

(c) “article” means an article of the Constitution;

(d) "Election Commission" means the Election Commission appointed by the President under article 324;

(e) "existing Union territory of Pondicherry" means the Union Territory of Pondicherry as existing immediately before the appointed day;

(f) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having immediately before the appointed day, the force of law in the whole or any part of the existing Union territory of Pondicherry;

(g) "sitting member", in relation to the House of the People means a person who, immediately before the appointed day, representing as a member of the House;

(h) "treasury" includes a sub-treasury.

PART II

ESTABLISHMENT OF THE STATE OF PONDICHERRY

3. On and from the appointed day, there shall be established a new State, to be known as the State of Pondicherry comprising the territories which immediately before that day were comprised in the existing Union territory of Pondicherry.

Estab-
lishment
of State
of Pondi-
cherry.

4. On and from the the appointed day in the First Schedule to the Constitution,—

Amend-
ment of
First
Schedule
to the
Consti-
tution.

(a) under the heading "I. THE STATES" after entry 25, the following entry shall be inserted, namely:—

"26 Pondicherry...The territories specified in section 3 of the State of Pondicherry Act, 1992";

(b) under the heading "II. UNION TERRITORIES", entry 6 relating to Pondicherry shall be omitted and entry 7 shall be re-numbered as entry 6.

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

5. As from the appointed day there shall be allotted one seat to the State of Pondicherry in the Council of States.

Repre-
sentation
in
Council
of States.

6. The sitting member of the Council of States representing the Union Territory of Pondicherry, shall be deemed to have been elected to the Council by the State of Pondicherry.

Provision
as to
sitting
member.

THE HOUSE OF THE PEOPLE

7. On and from the appointed day,—

(a) in the First Schedule to the Representation of the People Act, 1950,— 43 of 1950.

(i) under the heading "I. STATES",—

(a) entries 16 to 22 shall be re-numbered as entries 17 to 23 respectively;

(b) after entry 15, the following entry shall be inserted, namely:—

16. Pondicherry....1...."

(ii) under the heading "II UNION TERRITORIES", entry 9 relating to Pondicherry shall be omitted.

(b) the parliamentary constituency of the existing Union territory of Pondicherry shall be deemed to be the Parliamentary constituency of the State of Pondicherry and the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, shall be construed accordingly.

Provision
as to
Sitting
member.

8. The sitting member of the House of the People representing the constituency which, on the appointed day, by virtue of the provisions of section 7, becomes a constituency of the State of Pondicherry shall be deemed to have been elected under sub-clause (a) of clause (1) of article 81 of the House of the People by that constituency.

THE LEGISLATIVE ASSEMBLY

Alloca-
tion of
seats
in the
Legisla-
tive As-
sembly.

9. The total number of seats in the Legislative Assembly of the State of Pondicherry to be constituted at any time after the appointed day, to be filled by persons chosen by direct election from territorial constituencies shall be forty.

Amend-
ment of
Second
Schedule
to Act 43
of 1950.

10. (1) In the Second Schedule to the Representation of the People Act, 1950—

(i) under the heading "I STATES"—

(a) entries 16 to 22 shall be renumbered as entries 17 to 23 respectively;

(b) after entry 15, the following entry shall be inserted, namely:—

16. Pondicherry40...."

(ii) under the heading "II UNION TERRITORIES", entry 4 relating to Pondicherry shall be omitted.

(2) The amendments made by clauses (a) and (b) of sub-para (i) shall have effect in relation to the Legislative Assembly of the State of Pondicherry to be constituted at any time after the appointed day.

11. The Election Commission shall distribute, whether before or after the appointed day, the seats assigned to the Legislative Assembly of the State of Pondicherry under Section 9 to single member territorial constituencies and delimit them on the basis of the latest census figures having regard to the provisions of the Constitution and to the following provisions:—

Defini-
tion of
Consti-
tuencies.

(a) all constituencies shall, so far as practicable, be geographically compact areas and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and

(b) every assembly constituency shall be so delimited as to fall only within the parliamentary constituency.

12. The Rules of Procedure and Conduct of Business of the Legislative Assembly of the existing Union territory of Pondicherry as in force immediately before the appointed day shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly of the State of Pondicherry subject to such modifications and adaptations as may be made therein by the Governor of that State.

Rules of
Proce-
dure.

PART IV

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

13. (1) The President may, at any time before the appointed day, authorise by order such expenditure from the Consolidated Fund of State of Pondicherry as he deems necessary for a period of not more than six months beginning with the appointed day, pending the sanction of such expenditure by the Legislative Assembly of the State of Pondicherry.

Authori-
sation
of ex-
penditure
pending
its sanc-
tion by
Legisla-
tive As-
sembly.

Provided that the Governor of Pondicherry may, after the appointed day, authorise by order such further expenditure as he deems necessary from the Consolidated Fund of the State of Pondicherry for any period not extending beyond the said period of six months.

(2) The President or, as the case may be, the Governor of Pondicherry shall make separate orders under sub-section (1) in respect of periods falling in different financial years.

14. (1) The reports of the Comptroller and Auditor General of India referred to in section 49 of the Government of Union Territories Act, 1963 relating to the accounts of the existing Union territory of Pondicherry in respect of any period prior to the appointed day, shall be submitted to the Governor of Pondicherry who shall cause them to be laid before the Legislative Assembly of the State.

Reports
relating
to the
account
of the
existing
Union
territory
of Pongi-
cherry.

(2) The Governor may, by order,—

(a) declare any expenditure incurred out of the Consolidated Fund of the existing Union territory of Pondicherry on any service in respect of any period prior to the appointed day during any financial year in excess of the amount granted for that service and

for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised, and

(b) provide for any action to be taken on any matter arising out of the said reports.

Allow-
ances and
privi-
leges of
Governor
of Pondi-
cherry.

15. The allowances and privileges of the Governor of Pondicherry shall, until provision in that behalf is made by Parliament by law under clause (3) of article 158, be such as the President may by order, determine.

Distribu-
tion of
revenues.

16. The President, shall by order, determine the grants-in-aid of the revenue of the State of Pondicherry and the share of the State in the Union duties of excise, and taxes on income and for that purpose amend thereby the relevant provision of the Union Duties of Excise (Distribution) Act, 1962 the Additional Duties of Excise (Goods of Special Importance) Act, 1957, and the Constitution (Distribution of Revenue) Order, 1969 in such manner as he thinks fit.

3 of 1962.
58 of 1957.

PART V

ASSETS AND LIABILITIES

Property,
assets,
rights,
liabili-
ties,
obliga-
tions, etc.

17. (1) All such property and assets with in the existing Union territory of Pondicherry as are held immediately before the appointed day by the Union for purposes of Governance of that Union territory shall, on and from that day, pass to the State of Pondicherry unless the purposes for which such property and assets are so held are for Union purposes:

Provided that the cash balance in the treasuries in the Union territory of Pondicherry before the appointed day shall, as from that day, vest in the State of Pondicherry.

(2) All rights, liabilities and obligations (other than those relatable to, or in connection with, a Union purpose), which are immediately before the appointed day,—

(a) the rights, liabilities and obligations of the Central Government arising out of, or in connection with, the governance of the Union territory of Pondicherry; or

(b) the rights, liabilities and obligations of the Administrator of the existing Union territory of Pondicherry in his capacity as such, or of the Government of that Union territory,

shall, on and from the appointed day, be the rights, liabilities and obligations of the Government of the State of Pondicherry.

(3) The right to recover arrears of—

(a) any tax or duty being a tax or duty enumerated in the State List in the Seventh Schedule to the Constitution, or

(b) any duty referred to in article 268, or

(c) any tax under the Central Sales Tax Act, 1956, which have fallen due in the existing Union territory of Pondicherry shall pass to the State of Pondicherry.

(4) The provisions of this section shall not apply to or in relation to,—

(a) any institution, undertaking or project the expenditure in relation to which is immediately before the appointed day met from out of the Consolidated Fund of India;

(b) any property which has been placed by the Union at the disposal of the Administration of the existing Union territory of Pondicherry subject to the condition that the ownership thereof will continue to vest in the Union.

Explanation.—For the purposes of this Section—

(a) “liability” includes liability in respect of any civil deposit, local fund deposit, charitable or other endowment, provident fund account, pension or actionable wrong;

(b) “Union purposes” means the purposes of Government relating to any of the matters mentioned in the Union List.

PART VI

PROVISIONS AS TO SERVICE

18. (1) In this Section, the expression “State Cadre”,—

Provision
relating
to All
India
Services.

(a) in relation to the Indian Administrative Service has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(b) in relation to the Indian Police Service has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954;

(c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1968.

(2) On and from the appointed day, there shall be constituted for the State of Pondicherry a State Cadre of the Indian Administrative Service, a State Cadre of the Indian Police Service and a State Cadre of the Indian Forest Service.

(3) The initial strength and composition of each of the said State cadres shall be such as the Central Government may, by order, determine before the appointed day.

(4) Such of the members of each of the said Services borne on the Union territories cadre thereof immediately before the appointed day, as the Central Government may by order, specify, shall be allocated to the State cadre of Pondicherry of the same Service with effect from such date or dates as may be specified in the order.

(5) Nothing in this Section shall be deemed to affect the operation after the appointed day of the All-India Services Act, 1951, or the rules or regulations made thereunder in relation to the State cadre of the said services referred to in sub-section (2) or sub-section (4) and in relation to the members of those services borne on the State cadre.

Provi-
sions re-
lating to
certain
services.

19. (1) On and from the appointed day, there shall be constituted for the State of Pondicherry the following services, namely:—

- (a) The Pondicherry Administrative Service; and
- (b) the Pondicherry Police Service; and

(2) The initial strength and composition of the cadres of the said Services shall be such as the Administrator of the existing Union territory of Pondicherry may, with the approval of the Central Government, by order, determine before the appointed day.

(3) Subject to the foregoing provision of this section, the rules and regulations applicable to or in relation to the members of the existing Civil Service and the existing Police Service as in force immediately before the appointed day shall, so far as may be, apply respectively to and in relation to the members of the Pondicherry Administrative Service and the Pondicherry Police Service until altered, repealed or amended by the competent authority.

(4) Every member of the Central Health Service who immediately before the appointed day is holding any post in the existing Union territory of Pondicherry being a post included in the authorised strength of that service, shall, until otherwise directed by the Central Government, be deemed to be on deputation, on and from the appointed day, to the Government to the State of Pondicherry on the same terms and conditions of service as are applicable to him under the Central Health Service Rules, 1963, but without any deputation allowance:

Provided that the period of such deputation shall in no case extend beyond a period of three years from the appointed day.

Explanation.—In this sub-section, “Central Health Service” means the Central Health Service constituted under the Central Health Service Rules, 1963.

Provi-
sions re-
lating to
other
services.

20. (1) Every person who immediately before the appointed day is serving in connection with the affairs of the Union under the administrative control of the Administrator of the Union territory of Pondicherry shall, unless otherwise directed by an order of the Central Government, be deemed to have been allocated for service as from that day in connection with the affairs of the State of Pondicherry.

Provided that no direction shall be issued under this section after the expiry of a period of one year from the appointed day.

(2) The provisions of this section shall not apply in relation to persons to whom the provisions of sections 18 and 19 apply.

21. (1) Nothing in this section or sections 19 and 20 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I or part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the State of Pondicherry.

Other provisions as to services.

Provided that the conditions of service applicable immediately before the appointed day in the case of any person referred to in section 19 of section 20 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(2) All services prior to the appointed day rendered by a person allocation under section 19 or deemed to have been allocated under section 20 in connection with the administration of the Union territory of Pondicherry, shall be deemed to have been rendered in connection with the affairs of the State of Pondicherry for the purposes of the rules regulating his conditions of service.

22. Every person who immediately before the appointed day is holding or discharging the duties of any post or office in connection with the administration of the Union territory of Pondicherry, shall continue to hold the same post or office in the State of Pondicherry and shall be deemed, on and from that day, to have been duly appointed to that post or office by the Government of, or other appropriate authority, in the State of Pondicherry.

Provisions as to Continuance of officers in same posts.

Provided that nothing in this section shall be deemed to prevent a competent authority on or after the appointed day from passing in relation to such person any other order affecting his continuance in such post or office.

23. The Central Government may, by order, establish one or more Advisory Committees for the purpose of assisting it in regard to—

Advisory Committees.

(a) the discharge of its functions under this part; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this part and the proper consideration of any representations made by such persons.

24. The Central Government may give such directions to the Government of the State of Pondicherry as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part, and the State Government shall comply with such directions.

Power of Central Government to give directions.

PART VII

LEGAL AND MISCELLANEOUS PROVISIONS

Amend-
ment of
Article
210,
Article
239A,
239B,
and
article
240.

25. On and from the appointed day—

(a) in the proviso to clause (2) of article 210, for the words “States of Himachal Pradesh, Manipur, Meghalaya and Tripura” the words “State of Himachal Pradesh, Manipur, Meghalaya, Pondicherry and Tripura” shall be substituted.

(b) articles 239A and 239B of the Constitution shall be omitted.

(c) in clause (1) of article 240, the word “Pondicherry” shall be omitted.

Amend-
ment of
Act 20 of
1963.

26. On and from the appointed day, in the Government of Union Territories Act, 1963, (clause (h) of sub-section (1) of section 2, shall be omitted.

Conti-
nuance of
existing
laws and
their
adapta-
tion.

27. (1) All laws in force, immediately before the appointed day, in the existing Union territory of Pondicherry shall continue to be in force in the State of Pondicherry until altered, repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of facilitation the application in relation to the State of Pondicherry of any law made before the appointed day the appropriate Government may, within two years from that day, by order make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.— In this section, the expression “appropriate Government” means, as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government and as respects any other law, the Government of the State of Pondicherry.

Power to
construe
laws.

28. Notwithstanding that no provision or insufficient provision has been made under section 27 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Pondicherry, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

Provi-
sions
as to
continu-
ance at
courts,
tions.

29. All courts and tribunals and all authorities discharging lawful functions throughout the existing union territory of Pondicherry or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent Legislature or other competent authority, continue to exercise their respective functions.

30. The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law.

Effect of provisions of Act inconsistent with other laws.

31. (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

Power to remove difficulties.

(2) Every order made under this section shall be laid before each House of Parliament.

32. (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in Session for a total period of thirty days which may be comprised in one Session or in two successive Sessions, and if before the expiry of the Session in which it is so laid or the Session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The aspirations of the people of Pondicherry has all along been to attain full Statehood within the Union. Most of the Union territories have been granted Statehood. In Pondicherry even for postings and transfers in the Government organisations, the Pondicherry administration has to wait for the orders of the Central Government. The Union Territory or Pondicherry comprises of Pondicherry, Karikal, Mahe and Yanam. In these territories the Welfare measures and administrative set-ups have to be efficiently organised.

It is in the fitness of things, therefore, that the wishes of the people of Pondicherry for Statehood are also fulfilled.

The Bill seeks to achieve the above object.

V. NARAYANASAMY.

FINANCIAL MEMORANDUM

Clause 11 of the Bill seeks to empower the Election Commission to delimit the Assembly Constituencies of the new State of Pondicherry. For this purpose a non-recurring expenditure of about rupees ten thousand will have to be incurred from the Consolidated Fund of India.

2. As a State, Pondicherry will be entitled to a share in the Central taxes which will be determined in pursuance of clause 16 of the Bill. This would augment the States revenue, but a gap between the revenue receipts and expenditure on revenue account may still be left. In the past, the Finance Commission had taken note of such deficits and recommended suitable grants-in-aid under article 275 (1) of the Constitution for various States. It is, therefore, proposed to provide for such quantum of grants-in-aid to the new State as may be considered necessary until the recommendations of the next Finance Commission become available, by suitably amending the provisions of Constitution (Distribution of Revenues) Order, 1969, in exercise of the powers sought to be taken under clause 16 of the Bill.

3. Clause 23 of the Bill seeks to empower the Central Government to establish one or more Advisory Committees for the purpose of assisting it in regard to the discharge of its functions in relation to allocation of the members of services and the ensuring of fair and equitable treatment to all persons affected. An expenditure of about rupees five thousand may have to be incurred from the Consolidated Fund of India on account of travelling allowance of Members of these Committees.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill enables the President to determine by order the allowances and privileges of the Governor of the new State.

Clause 16 of the Bill empowers the President to determine by order the grants-in-aid to the new State and its share of Central Taxes and amend for that purpose the relevant provisions of the Union Duties of Excise (Distribution) Act, 1957, and the Constitution (Distribution of Revenues) Order, 1969.

Clause 27 of the Bill provides for the adaptation of existing law to facilitate their application to the new State. The power to adapt is being conferred on the Central Government in the case of laws relating to matters enumerated in the Union List in the Seventh Schedule to the Constitution and on the Government of the new State in the case of all other laws.

Clause 32 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill when enacted. The rules if any, will be confined to matters of procedure and other matters of minor detail relating to the enforcement of the various provisions included in the Bill.

The aforementioned provisions are mainly of a consequential nature or pertain to matters of details and procedure. As such, the proposed delegation of legislative powers is of normal character.

VII

BILL NO. XXXVII OF 1992

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1992.

Short
title,
and
commen-
cement.

(2) It shall come into force with immediate effect.

2. In article 77 of the Constitution to clause (1) the following proviso shall be added, namely:—

Amend-
ment of
article
77.

"Provide that every agreement, treaty, memorandum of understanding, contract or deal entered into by the Government of India including borrowing under article 292 of the Constitution with any foreign country or international organisation of social, economic, political, financial or cultural nature and settlements relating to trade, tariff and patents shall be laid before each House of Parliament prior to the implementation of such agreement, treaty, memorandum of understanding, contract or deal and shall operate only after it has been approved by resolutions of both Houses of Parliament."

STATEMENT OF OBJECTS AND REASONS

With the increasing role of and interference by the International organisations in the socio-economic life and policies of nations and bilateral and multi-lateral negotiations and agreements entered into by nations with far-reaching ramifications, the possibility of some of such agreements and memorandum of understanding coming into conflict with larger and long term interests of the country is obvious. In the background of the ongoing negotiations on part of the GATT there is widespread demand that Parliament and people must be taken into confidence before any decision is taken on these issues having a serious bearing on the economic sovereignty of the country.

Hence the Bill.

M. A. BABY

VIII

BILL No. XXXVIII OF 1992

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1992.

Short
title.

2. In article 81 of the Constitution in clause (1) sub-clause (a) for the words “by direct election” the words “in accordance with the system of proportional representation by means of the single transferable vote” shall be substituted.

Amend-
ment of
article
81.

STATEMENT OF OBJECTS AND REASONS

It is proposed that elections to Parliament, State Legislative and local bodies should be held on the basis of proportional representation and political parties submitting lists of candidates for the seats to be filled up. The whole State may be divided into multiple constituencies of not less than ten members each. Each party shall get its representatives elected in proportion to the votes it polled and the number of candidates in the order of priority in their list shall be declared as elected according to their voting strength.

It is common knowledge that since the inception of the Constitution and because of their present electoral system, different political parties do not get the number of seats in legislatures proportionate to the votes polled in their favour and parties on the basis of a minority of votes varying from 35 to 45 per cent have been getting 75 to 80 per cent of these seats. Thus, the will of the people and democracy are denied and the people's verdict is distorted. To prevent such a gross distortion of the People's will, the only correct method is election by proportional vote and on the basis of party list.

Hence the Bill.

M. A. BABY

IX

BILL No. XXXIX OF 1992

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1992.

(2) It shall come into force at once.

2. In article 356 of the Constitution, in clause (1) for the portion beginning with the words “of a State or otherwise” and ending with the words “with the provisions of this Constitution” the following shall be substituted, namely:—

Short
title
and com-
mence-
ment.

Amend-
ment of
article
356.

“of a State is satisfied that situation has arisen,—

(i) due to an armed rebellion within the State; or

(ii) due to an external aggression directly involving the geographical boundaries of the State; or

(iii) that the Government of the State has lost the majority on the floor at the State Legislative Assembly,”.

STATEMENT OF OBJECTS AND REASONS

Article 356 of the Constitution was incorporated with an assurance in the Constituent Assembly that the provisions of this article would be used only in situations of utmost justification and not for protecting the political interests of the ruling party at the Centre. However within less than a decade of the commencement of our Constitution, a democratically elected opposition led Government in the State of Kerala headed by Shri EMS Namboodiripad was dismissed in the year 1959 in spite of the fact that it enjoyed majority in the Kerala Legislative Assembly and the so called break down of law and order was due to the agitation unleashed by the then ruling party at the Centre. Since then there had been a number of instances of misuse and abuse of this provision of the Constitution by ruling parties at the Centre.

Our country being a huge sub-continent with 15 constitutionally recognised national languages and distinct cultural traditions, can remain united only if strict democratic norms are followed in the functioning of the Governments at the Centre and the States. The misuse of article 356 in relation to the State of Punjab and Jammu and Kashmir is also responsible for the precarious situation existing there today. If the democratic verdict of the people of a State with regard to the choice of Government in their State is subverted according to the whims and fancies of the Central Government, the people of that State will naturally get alienated from the mainstream of the national political scene and divisive, fissiparous and secessionist forces will only take advantage of the situation as has happened in many parts of India. This Bill is intended to minimise the misuse and abuse of article 356 of the Constitution.

Hence this Bill.

M. A. BABY

X

Bill No. XXVI of 1992

A Bill to ameliorate the lot of suffering prostitutes in the society and to provide for their rehabilitation and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Rehabilitation of Prostitutes Act, 1992.

Short title,
extend and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for different States and for different provisions of this Act.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State the State Government and in all other cases the Central Government;

Definitions.

(b) “prescribed” means prescribed by rules made under this Act;

(c) prostitute” means any woman who earns her livelihood from or offers herself for prostitution to any man not being her husband for consideration whether in cash or kind;

(d) words and expressions used but not defined in this Act and defined in the Immoral Traffic (Prevention) Act, 1956 shall have the meanings respectively assigned to them in that Act.

Prohibition
of
prostitu-
tion.

3. Prostitution either by a male or female is hereby prohibited.

Punishment
for pros-
titution.

4. (1) Notwithstanding anything contained in the Immoral Traffic (Prevention) Act, 1956 or any other law for the time being in force any male who commits the offence of prostitution shall be punishable with imprisonment for a term which may extend to one year or a fine which may extend to rupees one thousand for the first offence and for any second or subsequent offence with imprisonment which may extend to seven years or fine which may extend to ten thousand rupees or with both;

(2) If the offence of prostitution is committed by a female for the first time she shall be punishable with imprisonment for a term which may extend to one year and for any second or subsequent offence with imprisonment for a term which may extend to seven years:

Provided that the provisions of this sub-section shall not be applicable unless the appropriate Government suitably rehabilitates a prostitute under section 7.

Offences
to be
cogniza-
ble.

5. Notwithstanding anything contained in the Code of Criminal Procedure 1973 every offence committed under this Act shall be cognizable and non-compoundable.

Appro-
priate Gov-
ernment
to conduct
survey of
prostitu-
tes.

6. It shall be the duty of the appropriate Government to conduct a survey to ascertain the number of prostitutes in its jurisdiction and such other details about them as may be prescribed.

Rehabilita-
tion of
prostitu-
tion

7. The appropriate Government shall provide to every woman found to be earning her livelihood by means of prostitution at the time of the commencement of this Act,—

(a) such financial assistance per month as may be prescribed;

(b) residential accommodation free of cost;

(c) vocational training according to her age, calibre and qualifications;

(d) such other assistance as maybe necessary for the proper rehabilitation of such prostitute

8. (x) The appropriate Government shall open schools and Technical Education of children born of prostitutes at appropriate places in its jurisdiction.

Appropriate Government to open schools and training Institutes for children of prostitutes.

(z) The children attending the school and Technical Education Institutions referred to in sub-section (x) shall be provided with books, writing materials, dress and other relevant articles free of cost by the appropriate Government.

9. The appropriate Government shall make necessary arrangements for providing free medical care to prostitutes suffering from various diseases particularly sexually transmitted diseases at appropriate hospitals and medical centres.

Free medical care to prostitutes.

10. This Act shall not affect the provisions of any other law for the time being in force but any prostitute or her children deriving benefit under this Act shall not be entitled to get benefit under any other law for the time being in force.

Saving provision,

11. The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENTS OF OBJECTS AND REASONS

A large number of girls hailing from various parts of the country due to poverty are driven to prostitution. This is a slur on our society. It spreads the dreaded disease of AIDS which Governments are to endeavouring to control in the interest of public health. It is a humanitarian problem which needs to be tackled. Moreover, in view of the spiritual values that India has held a lead needs to be given to the world, showing how the lot of this section of the suffering humanity can be improved.

SHABBIR AHMAD SALARI

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for rehabilitation of prostitutes. Clause 8 provides that appropriate Government to open schools and training institutes for children of prostitutes. Clause 9 provides for free medical care to prostitutes. The Bill, if enacted, will involved expenditure from the Consolidated Fund of India. It is, estimated that a sum of rupees one hundred crores is likely to be incurred from the Consolidated Fund of India per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to frame rules which will relate to matters of details only. The delegation of Legislative Power is of normal character.

XI

BILL NO. XIII of 1992

A Bill to provide for the compensation to be paid to the citizen who are falsely implicated in criminal and other cause and who suffer due to riots, accidents and such other incidents and for matters connected therewith.

Enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

Short title,
extent and
commence
ment.

1. (1) This Act may be called the Public Liabilities Act 1992.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Compensa-
tion on
account of
acquittal
in false
cases.

2. Notwithstanding anything contained in any other law for the time being in force where any person is acquitted or discharged by a Court dealing with criminal offences or a Court Martial on ground that the charge was false or frivolous, the court acquitting or discharging such accused shall also direct the State to pay to the accused so discharged compensation which may extend to five lakh rupees with costs, if any.

Appeal.

3. An Appeal shall lie to the Court to which the appeal ordinarily lies from the order of any court under section 3.

4. Where any person dies in any riot his kith and kin shall be paid compensation by the State amounting to rupees five lakhs. Compensation in case of death in riot.
5. Where any person suffers injury or loss of property in any riot such person shall be paid compensation by the State amounting to rupees One lakh in case of grievous hurt and rupees fifty thousand in case of simple hurt. The State shall also pay compensation for the loss or damage to property according to the loss caused and equal to the existing value of such property. Compensation for injuries in a riot.
6. Where any payment ordered by any court under this Act is delayed, the State shall pay simple interest at twelve percent. per annum till the realization of the entire payment. Provision of interest payment in case of default.
7. The Motor Accidents Claims Tribunal within whose jurisdiction the riot takes place shall have jurisdiction to entertain applications under section 6 which shall be tried summarily and shall be disposed of within six months. Jurisdiction.
8. The amounts ordered to be paid by the Tribunal or court under section 6 shall be realisable as arrears of Land Revenue from the State. Compensation to be realised as land revenue.
9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules

STATEMENT OF OBJECTS AND REASONS

More often frivolous and groundless prosecutions are launched against innocent persons who after protracted trials and sufferings are ultimately acquitted. There is no provision to pay any compensation to them by the order of the court which acquits them honourably.

Similarly there are cases of breakdown of law and order and failure of the State machinery to protect the lives and property of the public resulting in deaths and injuries and loss of property of the general public. The primary responsibility of the state is to maintain law and order and to protect the lives and property of its citizens. Where the State fails to do so, it should be the liability of the State to compensate the affected citizens.

Hence this Bill.

SHABBIR AHMAD SALARIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the compensation to be paid to the citizens on account of acquittal in false cases. Clause 5 provides for compensation in case of death in riots and clause 6 for compensation for injuries suffered in riots. Clause 7 makes provision of interest payment in case of default. The Bill if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crores per annum is likely to be incurred as recurring expenditure.

A sum of rupees two crores is also likely to incur as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 gives the rule making power to the Central Government for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

XII

BILL NO. XLI OF 1992

A Bill to provide for the protection of the homebased workers in the country and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title,
extent
and
com-
mence-
ment.

1. (1) This Act may be called the homebased workers (Protection) Act, 1992.

(2) It extends to the whole of India

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the State Government and in other cases the Central Government;

(b) “Board” means the National Tripartite Board established under section 3 of this Act;

(c) "contractor" means any person who either as an independent contractor or agent of a contractor or sub-contractor who contracts or engages any homebased worker either for himself or for somebody else to produce a given product for an establishment or a person;

(d) "employer" means the person who has the ultimate control over the affairs of the establishment and who is the principal employer of such establishment;

(e) "establishment" means any place or premises, including precincts thereof in which any small scale industry, trade, business or manufacture is being, or is ordinarily, carried on;

(f) "homebased worker" means any person employed in connection with the work of any establishment who produces a given product at the place of his residence;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "wages" means all remunerations payable to a homebased worker in respect of the work done by him.

3. (1) The Central Government shall establish a National Tripartite Board which shall consist of the representatives of the appropriate Government, the representatives of the employers including the contractors and the representative of the homebased workers.

Establishment of National Tripartite Board.

Provided that the representatives of the homebased workers shall be nominated by their national trade Union Centres.

(2) The Board shall formulate national policy in regard to the homebased workers and suggest ways and means for protection of their rights.

4. (1) The Board shall entertain complaints of the homebased workers in respect of their conditions of work or service or their welfare benefits under this Act.

Duties of the Board.

(2) It shall exercise such powers as may be prescribed from time to time.

5. (1) The Central Government shall, by notification in the Official Gazette, appoint a Chief Commissioner for homebased workers.

Chief Commissioner for home-based workers.

(2) The appropriate Government shall by notification in the Official Gazette, appoint Assistant Commissioner for homebased workers for a State or the Union Territory as and when necessary to do so;

(3) The Chief Commissioner and Assistant Commissioner appointed under this Act shall be deemed to be public servants.

(4) The Chief Commissioner and Assistant Commissioners of homebased workers shall exercise such powers and functions as may be prescribed from time to time.

Functions
of the
Chief
Commis-
sioner and
Assistant
Commis-
sioner.

6. Every Commissioner for homebased workers appointed under this Act shall,—

- (a) maintain a block and district wise register of homebased workers with such particulars and in such manner as may be prescribed;
- (b) maintain a block and district wise register of employers employing homebased workers;
- (c) issue identity card to every homebased worker;
- (d) make a survey of homebased workers from time to time.

Punish-
ment for
unregis-
tered
employer
and
prohibi-
tion of
employing
unregis-
tered
home-
based
worker.

7. (1) No employer, unless he has registered himself with the appropriate Government shall engage any homebased worker.

(2) If an unregistered employer engages any homebased worker he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

(3) No employer shall engage any homebased worker who has not registered himself with the Chief Commissioner or Assistant Commissioner for homebased workers.

Minimum
wages
for
home-
based
workers.

8. (1) Every employer shall pay to a homebased worker minimum wages as may be fixed by the Board from time to time

(2) The minimum wages if fixed on a piece rate basis, shall not be less than the wages fixed on time basis.

(3) The time taken by a homebased worker for coming to employer or contractor for raw material and depositing the finished product shall also be taken into account in calculation of wages.

Pension
cum Pro-
vident
Fund
Scheme.

9. The appropriate Government shall formulate a mutual pension-cum-provident Fund Scheme for the homebased workers which shall be implemented by the Chief Commissioner for homebased workers

Compensa-
tion for
death
while
working.

10. If any homebased worker dies while working, his dependents shall be paid compensation as may be prescribed, by the appropriate Government out of the scheme created under Section 9 depending upon the age and length of service of the deceased:

Provided that the compensation shall not be less than ten thousand rupees.

Power to
make
rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, the rules may provide for the—

- (a) terms and conditions of service of the homebased workers;
- (b) maternity benefits for the female homebased workers;
- (c) health insurance cards for homebased workers;
- (d) creches for the children of homebased workers;

(e) payment of layoff wages by the employer if he is unable to give work to the homebased worker on account of bad weather, shortage of raw material and such other circumstances.

STATEMENT OF OBJECTS AND REASONS

The number of homebased workers in the country is increasing. They are not protected by labour laws and do not enjoy the benefits of welfare legislation. Whether piece-rated or time-rated, this makes such workers vulnerable to the whims of employers. Often, the work is done through contractors, and it becomes impossible to identify the principal employer. Quite often, the nature of their labour is disguised in the form of a sale purchase agreement.

This Bill seeks to ensure the regularity and continuity of employment for homebased workers and to protect their rights, wages, and working conditions, and provide welfare benefits.

Hence this Bill.

KAMLA SINHA

FINANCIAL MEMORANDUM

Clause 3 provides for the establishment of a National Tripartite Board. Clause 5 provides for the appointment of Chief Commissioner and Assistant Commissioners. Clause 9 provides for the Pension-cum-Provident Fund Scheme. The Bill, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees Fifty Crores per annum will be involved as recurring expenditure.

A non recurring expenditure of rupees Twenty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 provides for the rule making power of the Central Government for carrying out the purposes of this Bill. The rules will relate to the matters of details only. The delegation of legislative power is of normal character.

SUDARSHAN AGARWAL,
Secretary-General.